

The morality of political liberalism

Fernando de los Santos Menéndez¹

Resumen: el artículo estudia dos formas de entender el liberalismo político. Por un lado, el liberalismo político puede confiar en la existencia de un consenso entrecruzado entre todas las visiones integrales razonables presentes en nuestra sociedad. Por otro lado, podemos fundar el liberalismo político sobre el valor moral del igual respeto a todos. El dilema entre una identificación de hecho de un consenso entrecruzado y una apelación normativa a valores morales se reproduce en dos niveles. Primero, cuando llenamos de contenido nuestra concepción política de la justicia. Y segundo, cuando exigimos imparcialidad para rellenar ese contenido. En el primer caso, podemos argumentar en favor de una concepción política de la justicia a través de un razonamiento normativo con premisas morales, o nuestra concepción política de la justicia puede ser el área en la que todas las visiones integrales razonables se entrecruzan. De forma similar, podemos exigir que los ciudadanos ofrezcan razones públicas imparciales porque es lo que la gente con sus diferentes visiones integrales considera apropiado, o porque deberían considerarlo así. El autor defiende que determinemos nuestra concepción política de la justicia con razonamientos normativos imparciales, y que fundemos ese requisito de imparcialidad en el valor moral del igual respeto.

Palabras clave: liberalismo político, consenso entrecruzado, imparcialidad, igual respeto, unidad social.

Abstract: the paper discusses two ways to understand political liberalism. On the one hand, political liberalism may rely on the existence of an overlapping consensus among all reasonable comprehensive views present in our society. On the other hand, we may ground political liberalism on the moral value of equal respect for everyone. The dilemma between a factual identification of an overlapping consensus and a normative appeal to moral values arises at two levels. First, when we fill the content of our political conception of justice. And second, when we require impartiality to fill that content. In the former case, we may argue for a particular conception of justice through normative argument with moral premises, or our political conception of justice might be the area where all reasonable comprehensive views overlap. Similarly, we require that citizens offer impartial public reasons because this is what people holding different comprehensive views do think appropriate, or because they should consider it so. The author argues that we should define our political conception of justice through impartial normative argument, and that we should ground the demand of impartiality on the moral value of equal respect.

Keywords: political liberalism, overlapping consensus, impartiality, equal respect, social unity.

¹ Universidad Autónoma de Madrid.

INTRODUCTION

According to John Stuart Mill, social institutions should not dictate individuals what to think. Besides, everyone should be allowed to express their thoughts publicly. And the state should not interfere with individual actions that do not harm others (Mill, 1859). These ideas inspired John Rawls's first principle of justice. Rawls claims that everyone should enjoy «the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others» (1999, p. 53).

But Mill did not end there. Arguably, his normative agenda includes the promotion of a particular conception of the good. Namely, a way of life in which individualism occupies a special place (Mill, 1859, p. 44). Mill celebrates the existence of extravagant people (1859, p. 43). Since individualism enhances diversity, it increases the offer of ways of life to choose from (Mill, 1859, p. 36). On the contrary, Mill attacks public education (1859, p. 70). Otherwise everyone will resemble each other in the long run.

In contrast, Rawls avoids to favor a conception of the good life that privileges the development of individuality. He distinguishes *comprehensive* liberalism from *political* liberalism (1997). On the one hand, the former takes individualism as an ethical truth. In this view, social institutions should promote the exercise of individuality, as opposed to communitarian engagements and commitments. On the other hand, *political* liberalism claims that social institutions should not favor a particular way of life. Instead, the justification of laws and policies should address all citizens, including those who devote their life to the good of their community. In other words, society should ground political deliberation on reasons that everyone can accept, regardless of their comprehensive views (Rawls, 1997). This is the position that Rawls argues for.

TWO WAYS TO DEFINE OUR POLITICAL CONCEPTION OF JUSTICE

We may define the “reasons that everyone can accept” –i.e., reasons that appeal to our political conception of justice– in two ways. First, we might extract them from the area where all comprehensive views present in our society overlap. This is the idea of an overlapping consensus (Rawls, 2001, pp. 32-38). We identify the overlapping area as a fact, as opposed to its normative evaluation. In other words, whether the area of consensus is or is not the truth of justice –or whether this truth exists at all– is irrelevant. What matters is that this area covers terms of social cooperation that all citizens can accept. Thomas Nagel expresses this idea in the following terms: «the political result is thought to be right because it is rationally acceptable to all, rather than being rationally acceptable to all because it is by some independent standard of right» (1987, p. 219).

We refer to the area of overlapping consensus as our political conception of justice. The political conception of justice is based on a «convergence of rational support for certain institutions from the separate motivational standpoints of distinct individuals» (Nagel, 198, p. 218). It enables citizens with different compre-

hensive views to cooperate with each other in one society for the benefit of all, regardless of their different reasons and motivations to support the common institutions.

To be sure, there might not be an area where the comprehensive views of all citizens overlap. For the views of some citizens consists precisely on excluding the ways of life or the beliefs of others, and imposing theirs' instead. That is why, we must qualify the demand of a consensus among competing views. Our political conception of justice only requires that the views of *reasonable* citizens overlap. Citizens are reasonable when they do not aim to eliminate differing opinions, nor to impose a political consensus on the exclusive basis of their comprehensive view. The condition of reasonableness coheres with the justification of political liberalism. Namely, our common interest to cooperate with others in terms that they can accept, regardless of their beliefs.

Joseph Raz objects to the factual identification of our political conception of justice on the basis of an overlapping consensus. Specifically, Raz criticizes it for its “epistemic abstinence” (1990). According to Raz’s reading of Rawls, Rawls abstain from epistemologically evaluating the moral truth of his political conception of justice; even if it were false, what matters is that reasonable citizens holding different conceptions of the good can agree with it (Raz, 1990, pp. 8-9). Rawls’ epistemic abstinence –Raz adds– has only two limits in Rawls’s work. First, societies must be at least nearly just (Raz, 1990, p. 12). That is, the political conception of justice must not be too far from the truth. And second, the political conception of justice must be internally coherent (Raz, 1990, p. 13). This contrasts with a mere *modus vivendi* where citizens compromise their particular views to set common but mutually inconsistent terms for a peaceful life together.

Now, the second way to define our political conception of justice does not attempt to identify an area of consensus. Instead, it results from normative argument on the basis of premises that we consider morally true. In this view, “reasons that everyone can accept” are those that ultimately appeal to those premises. The fact that the political conception of justice does not coincide with the area in which all reasonable comprehensive views overlap is irrelevant. Citizens who do not hear to compelling normative arguments are unreasonable. Their acceptance of our political conception of justice is not necessary. For the latter derives its validity from normative argument alone.

In this view of political liberalism, reasons that support our conception of justice should not depend on holding a particular comprehensive view. As Nagel explains, citizens should develop their argument from a higher order of impartiality (1987, p. 216). Nagel means a level of impartiality higher than applying our particular comprehensive view impartially (1987, p. 239). In short, being impartial *among* comprehensive views.

Nagel’s argument starts from the distinction between «believing something and its being true» (1987, p. 229). If A believes in comprehensive view X, it follows that A thinks that X is true. This is compatible with A acknowledging that other citizens might not see the truth of her beliefs. From the standpoint of others, there is a gap between our beliefs and their truth (Nagel, 1987, pp. 229-230). Once we

understand this distinction, we can see why in public deliberation people should not appeal to their comprehensive views if their only argument is that they believe them to be true. Such an act of faith may not be shared by others. Instead, citizens must adopt an impersonal standpoint in the public forum.

Raz objects to this view. He argues that there is no such gap between believing X and X actually being true. Raz's argument is that when A believes in X, A has reasons to believe that X is true, different from the fact of herself believing it. If so, A can offer those reasons to others. Raz's argument deserves to be quoted:

«As Nagel reminds us, to believe in a proposition is to believe it to be true. That belief is not, and cannot be (very special cases, which I will disregard, excepted), the believer's reason for thinking that the proposition is true. My belief in a proposition is, a fortiori, no reason for others to accept it. [...] It therefore cannot be "that when we look at certain of our convictions from outside, however justified they may be from within, the appeal to their truth must be seen merely as an appeal to our beliefs." If it is an appeal to their truth, rather than merely to their existence, from the inside, it must be recognized as such from the outside as well» (Raz, 1990, pp. 38-39).

In other words, when we say "I believe in X", we are not saying that X is true because we believe in X. Rather, we believe in X because we have reasons to think that X is true. If so, these reasons not only explain our belief in X, but also justify the truth of X to others from an impersonal standpoint.

However, the adoption of Nagel's impersonal standpoint does not require us to abstain from appealing to our particular comprehensive view. Nagel acknowledges that citizens can publicly justify some elements of their comprehensive views. For these elements may find support in reasons that citizens with other comprehensive views can accept (Nagel, 1987, p. 230). What we need is a criterion to evaluate the force of the reasons that citizens offer in public. Specifically, we need to distinguish which reasons (or which part of their force) are acceptable for citizens independently of their comprehensive views, and which reasons are, on the contrary, dependent on particular comprehensive views.

Despite Raz's criticisms, Nagel provides us with an answer to this need. Namely, he proposes to evaluate the force of public reasons from the higher order of impartiality (1987). There are reasons that are compelling from *within* our comprehensive view, but whose validity is weak when we are impartial *among* comprehensive views. Let me illustrate this distinction with an example. Imagine that, according to your comprehensive view, X is true because a prophet -whose existence long ago historians proved- affirmed the truth of X under God's revelation. From the inside, you can strongly believe that such evidence shows the truth of X, given your faith in God and its revelation. But from a point of view impartial among comprehensive views, you cannot take the existence of God for granted. In public, the force of your argument is very weak because the only impartial evidence in support of X are the words of one person who lived long ago. From a higher order of impartiality, we cannot assume that this person is a prophet, nor that his words

derive from God. At best, others can accept the existence of that person and his words, if enough historical evidence is provided. But this does not prove that his words are true. Otherwise we fall in the fallacy of authority, by which X is true just because a person with authority says that X is true. To avoid this fallacy, we must appeal directly to the reasons why the authority claims that X is true. The identification of a fallacy -like other ways of human reasoning- is not dependent on holding a particular comprehensive view. Instead, it is a potential capacity of all citizens.

I anticipate one objection to this position, and my response. Even when we make judgments about justice from an impartial point of view, disagreement is likely to arise (Nagel, 1987, pp. 234-235). It is not clear that citizens can reach a consensus on a political conception of justice through normative argument. But, insofar as citizens ground their judgments in reasons that everyone can accept, those who disagree may nevertheless appreciate that others did not just try to impose their comprehensive views on them. Accordingly, citizens who disagree with the current political conception of justice might recognize its authority, even if they try to change it through public deliberation.

TWO WAYS TO JUSTIFY THE HIGHER ORDER OF IMPARTIALITY

I have just explained two ways to define our political conception of justice. Similarly, there are two ways to justify the higher order of impartiality. On the one hand, we can claim that the views of all reasonable citizens overlap in their acceptance of a higher order of impartiality to evaluate public reasons. On the other hand, we can make a normative argument in its support on the basis of moral premises whose truth we affirm.

If we justify the requirement of impartiality with a normative argument, we rely on the moral truth that everyone (and their views) deserves equal respect. The higher order of impartiality means that we must respect the comprehensive views of others even if we think that they are clearly false because the truth is what we believe. In this view, equal respect for everyone's agency is the moral truth that political liberalism endorses.²

Some may object that to affirm a moral truth is illiberal. They might say that some comprehensive views do not care about people's agency. Instead, these views subject people to the agency of the community, of a certain authority, or of God. People who hold these beliefs cannot accept political liberalism.

In response, political liberalism insists that people should choose to subject their agency if they do. Up to this point, political liberalism must admit the endorsement of a particular moral truth that some people may not accept: protection and respect of people's agency is a moral demand, whatever some people think about it. This acceptance does not have to be shameful. Discussions about what

² To be sure, babies may not be moral agents and, according to liberalism, they also deserve equal respect. However, in such cases their moral status as human beings entitle them to our respect, and we also have to protect (and arguably develop) their future agency.

we owe to each other as a matter of justice are normative. Accordingly, these discussions must start with moral premises. The basic moral premise of political liberalism is that everyone's agency deserves equal respect. Ronald Dworkin refers to this as part of the "constitutive" position of liberalism (1978, p. 127).

Nonetheless, only reasonable comprehensive views deserve equal respect. As said above, citizens are reasonable when they do not aim to impose their beliefs on others (Rawls, 1997). Those who think that social institutions should coerce everyone to think, express, or act as they do are unreasonable because they do not respect others' agency.

Someone may say that those who do not respect people's agency are not unreasonable *because* they are morally mistaken. Instead, they are unreasonable because lack of respect for the views of others precludes an overlapping consensus. This position that identifies an area of overlapping consensus among differing views avoids a final say about the moral truth of the value of equal respect. The wide acceptance in our nearly just societies of this value is enough to justify the higher order of impartiality. Our political conception of justice relies on the premise of equal respect *because* people holding different comprehensive views share this premise.

To sum up: the dilemma between a factual identification of an overlapping consensus and a normative appeal to reasons arises at two levels. First, when we fill the content of our political conception of justice. And second, when we require impartiality to fill that content. In the former case, we may argue for a particular conception of justice through normative argument with moral premises, or our political conception of justice might be the area where all reasonable comprehensive views overlap. Similarly, we require that citizens offer impartial public reasons because this is what people holding different comprehensive views *do* think appropriate, or because they *should* consider it so. The rest of the paper develops my argument to define our political conception of justice through impartial normative argument, and to ground the demand of impartiality on the moral truth of the value of equal respect.

POLITICAL LIBERALISM CANNOT AVOID MORALITY

Raz questions why we should derive normative principles of justice from an overlapping consensus, instead of defending those principles directly through normative argument (1990, p. 24). A response says that stable cooperation among people holding different comprehensive views would not be possible otherwise. For we disagree in our normative judgments. This response assumes that stable cooperation—or the value of social unity over time, more generally—is what social institutions should protect (Raz, 1990, p. 14). Thus, the value of social unity is another possible moral premise of our political conception of justice—apart from the value of equal respect—. Note also that, if we settle our political conception of justice through normative argument instead of identifying an overlapping consensus, we may also care about stable cooperation. Specifically, it might be one of the reasons

why we willingly comply with the reasonable political conception of justice currently in place even if we disagree with it.

The value of social unity may also justify the higher order of impartiality. Namely, if all reasonable people accept the demand of impartiality in the public forum because their comprehensive views overlap in this demand, then they value the social unity that arises from this overlapping consensus.

In short, our views about political liberalism must ultimately appeal to one of these two moral values: (1) equal respect to everyone, or (2) social unity over time. The former is asserted as a moral truth; the latter is assured by an overlapping consensus. When we identify our principles of justice with an overlapping consensus, all reasonable citizens agree with them. If we argue for those principles through normative argument, some people may disagree with our conclusions.

However, once we acknowledge the necessary appeal to at least one moral element, we cannot insist on the avoidance of morality anymore (Raz, 1990, p. 16). If we identify an area of overlapping consensus, we appeal to social unity. Alternatively, we may appeal to equal respect as a moral truth. To choose between the values of social unity and equal respect, we cannot appeal again to an overlapping consensus or to its moral truth, respectively. We cannot say that we choose social unity because it is the value where all reasonable comprehensive views overlap, nor can we choose equal respect because it is morally true. For then we would ask again why such overlapping consensus is valuable or such moral truth appealing, and we would turn again to justify them in the terms that they were supposed to justify themselves. Namely, the overlapping consensus being justified by social unity, whereas the moral truth being found in equal respect. And so on and so forth.

To avoid this reasoning in circle, we must make a moral choice between the value of social unity and the value of equal respect. In other words, we need a moral starting point for our political views. If we go for the idea of an overlapping consensus, we emphasize stable cooperation over time. Otherwise, we claim that the fundamental value of political liberalism is that everyone deserves equal respect.

That we have to make a moral choice before we argue for our principles of justice is a very modest claim. A political conception of justice is normative. In a nutshell, it says how social institutions *should* treat citizens. The way things are cannot provide the whole answer. To jump from how things *are* to how they *should* be, at least one moral element is necessary.

THE MORAL CHOICE

At first sight, the choice may not seem practically important. In many societies the most popular comprehensive views overlap in the demand of equal respect for everyone. However, the choice takes practical force when we consider societies that are not liberal. If you believe -as I do- that the value of equal respect should guide the institutions of those societies even if they can achieve social unity with-

out that value, then you are inclined –as I am– to see the higher order of impartiality as a moral truth. As Nagel says,

«[o]f course liberal impartiality claims for itself an authority that will not in fact be universally accepted, and therefore the justifications it offers for resisting the imposition of more particular values in certain cases will not secure actual universal agreement. But since it is a substantive moral position, that is not surprising» (Nagel, 1987, p. 240).

Political liberalism affirms the demand of equal respect as a moral truth. To be sure, political liberalism also claims that only the comprehensive views of *reasonable* citizens should be respected. Nonetheless, allegiance to the value of equal respect does not contradict this position. Instead, it reinforces this position. For the condition of reasonableness aims to protect comprehensive views that unreasonable people do not respect.³

So far, I have argued to ground the higher order of impartiality in the value of equal respect. But the same line of reasoning supports normative argument –as opposed to a factual identification of an area of overlapping consensus– to fill the content of our political conception of justice. One moral value –specifically, social unity over time– would support the idea of the overlapping consensus. But once we unveil that the demand of a consensus appeals to a moral value, we admit that normative argument is unavoidable. Accordingly, we must identify other moral values and weigh them against social unity to construct our political conception of justice.

CONCLUSION

The factual identification of an overlapping consensus as the sole basis of our political conception of justice despises whether this conception is normatively compelling. Yet defenders of the overlapping consensus's view are in fact arguing for the truth of their principles of justice (Raz, 1990, p. 15). What happens is that their truth only depends on the moral value of social unity over time. That is why, this conception of justice coincides with the principles factually identified in the area of overlapping consensus. On the other hand, those who argue for principles of justice without an eye on their public acceptance and their capacity to sustain stable cooperation are just ignoring the moral value of social unity.

I claim that the truth is somewhere in the middle. We start with a moral endorsement of a higher order of impartiality on the basis of the value of equal respect. It means “higher” than respecting citizens who hold our comprehensive view because it also requires to respect the views of others, to the extent that the

³ This does not mean that we should impose liberalism in all societies, even by brute force. Rather, it is a practical issue how best to achieve the widespread of liberalism among all societies, in a way that is consistent with respect for the rights that we recognize within our society.

latter are reciprocal in this regard. From this position of impartiality, citizens discuss about which political conception of justice all can accept. Each of us can offer a normative argument in favor of some principles of justice. The protection of social unity over time is a (compelling) reason in favor of a conception of justice, but other moral values may come into place in our normative argument (Raz, 1990, p. 16). At some point, we settle in a political conception of justice that most of us see as the truth. Finally, those reasonable citizens who disagree with this conception are nevertheless inclined to comply with its norms because they appreciate the respect devoted to their comprehensive view and their agency. This does not preclude that they keep offering public reasons to change our conception of justice. After all, the pursuit of Justice is an endless enterprise.

REFERENCES

- Dworkin, R. (1978). Liberalism. In: S. Hampshire, ed., *Public and private morality*. Cambridge; New York: Cambridge University Press, pp. 113-143.
- Mill, J.S. (1859). *On liberty*. [pdf] J. Bennett's online version available at: www.earlymoderntexts.com/assets/pdfs/mill1859.pdf [Accessed 27 Oct. 2016].
- Nagel, T. (1987). "Moral Conflict and Political Legitimacy". *Philosophy & Public Affairs*, 16(3), pp. 215-240.
- Rawls, J. (1997). "The Idea of Public Reason Revisited". *The University of Chicago Law Review*, 64(3), pp. 765–807.
- (1999). *A theory of justice. Revised Edition*. Cambridge, Mass.: The Belknap Press of Harvard University Press.
- (2001). *Justice as fairness. A restatement*. Cambridge, Mass.: The Belknap Press of Harvard University Press.
- Raz, J. (1990). "Facing Diversity: The Case of Epistemic Abstinence". *Philosophy & Public Affairs*, 19(1), pp. 3-46.